

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

INTEL CORPORATION, a Delaware
corporation,

Plaintiff,

vs.

Case No. _____

FLICK INTEL, LLC, a New Mexico limited
liability company, and RICHARD
KRUKAR, LUIS ORTIZ, and KERMIT LOPEZ,
individually and d/b/a FLICK INTEL, LLC,

Defendants.

COMPLAINT FOR DAMAGES AND INJUNCTIVE RELIEF

Plaintiff Intel Corporation (“Intel”), by and through its attorneys, alleges as follows:

1. This action arises from unauthorized use of the trade name and trademark FLICKINTEL in connection with the use and licensing of technology for linking on-screen items to data sources and remote applications for use with computers, televisions, and mobile phones, among other devices, by Flick Intel, LLC (“Flick Intel”) and its members Richard Krukar, Luis Ortiz, and Kermit Lopez (Krukar, Ortiz and Lopez collectively referred to herein as “Flick Intel Members”) doing business in the State of New Mexico (Flick Intel and Flick Intel Members collectively defined herein as “Flick Intel Defendants”).

2. By using a trade name and trademark that wholly incorporate and emphasize the world famous INTEL[®] trademark, the Flick Intel Defendants have caused and will likely continue to cause confusion that Intel is the source or sponsor of their goods or services, or that there is an association between Intel and the Flick Intel Defendants. In addition, the Flick Intel

Defendants' acts are causing, and/or will likely cause, dilution of the famous INTEL[®] trademark. Consequently, Intel seeks injunctive relief and damages under the federal Lanham Act (15 U.S.C. §§ 1051, *et seq.*), the New Mexico Trademark Act, the New Mexico Unfair Practices Act, and common law trademark infringement.

I. JURISDICTION

3. This Court has personal jurisdiction over Flick Intel because, on information and belief, Flick Intel conducts or has conducted business, as well as advertised and promoted goods and services, under the FLICKINTEL mark in the State of New Mexico and within this judicial district, and the effects of those acts have been felt in this district.

4. This Court has personal jurisdiction over the Flick Intel Members because, on information and belief, each conducts or has conducted business, as well as advertised and promoted goods and services, under the FLICKINTEL mark in the State of New Mexico and within this judicial district, and the effects of those acts have been felt in this district.

5. This Court has jurisdiction over this matter pursuant to 15 U.S.C. § 1121 and 28 U.S.C. §§ 1331, 1332, 1338 and 1367. Intel's claims are, in part, based on violations of the Lanham Act, as amended, 15 U.S.C. §§ 1051, *et seq.* The Court has jurisdiction over the state law claims pursuant to 28 U.S.C. §§ 1332, 1338(b), and 1367.

6. Venue lies in the District of New Mexico pursuant to 28 U.S.C. § 1391(b) and (c). Intel is informed and believes that the Flick Intel Defendants transact or have transacted business in this judicial district and a substantial part of the events, omissions, and injuries giving rise to Intel's claims occurred in this judicial district.

II. THE PARTIES

7. Plaintiff Intel Corporation is a Delaware corporation having its principal place of business at 2200 Mission College Boulevard, Santa Clara, California. Intel offers a wide variety of goods and services, which are sold worldwide and throughout the United States, including in the District of New Mexico. Intel is the largest industrial employer in New Mexico and its annual economic impact to New Mexico is nearly \$1 billion. Intel, the Intel Foundation and Intel employees contribute over \$4 million a year to schools, nonprofit organizations and programs in New Mexico in support of education, the environment, and quality of life.

8. On information and belief, Defendant Flick Intel, LLC is a New Mexico limited liability company with its principal place of business at 117 Bryn Mawr Drive Southeast, Albuquerque, New Mexico 87106. Flick Intel operates a website at the URLs flickintel.com, flickintel.tv and flickintel.net (the “Flick Intel Website”). On information and belief, Flick Intel targets consumers nationwide via its website, including customers in New Mexico and in this judicial district.

9. On information and belief, Defendant Richard Krukar (hereinafter, “Mr. Krukar”) is an individual residing in Albuquerque, New Mexico. Mr. Krukar is a member of Flick Intel, LLC. Mr. Krukar may be served with process at his place of business, 117 Bryn Mawr Drive Southeast, Albuquerque, New Mexico 87106, or wherever he may be found. On information and belief, Mr. Krukar is an agent of Flick Intel, LLC.

10. On information and belief, Defendant Luis Ortiz (hereinafter, “Mr. Ortiz”) is an individual residing in Albuquerque, New Mexico. Mr. Ortiz is a member of Flick Intel, LLC. Mr. Ortiz may be served with process at his place of business, 117 Bryn Mawr Drive Southeast,

Albuquerque, New Mexico 87106, or wherever he may be found. On information and belief, Mr. Ortiz is an agent of Flick Intel, LLC.

11. On information and belief, Defendant Richard Lopez (hereinafter, “Mr. Lopez”) is an individual residing in Albuquerque, New Mexico. Mr. Lopez is a member of Flick Intel, LLC. Mr. Lopez may be served with process at his place of business, 117 Bryn Mawr Drive Southeast, Albuquerque, New Mexico 87106, or wherever he may be found. On information and belief, Mr. Lopez is an agent of Flick Intel, LLC.

12. On information and belief, the Flick Intel Members have participated in the activities described herein at the direction and subject to the control of Flick Intel. The Flick Intel Members are each individually liable for the activities described herein.

13. At all relevant times, the Flick Intel Members participated in and/or had the ability and right to supervise, direct, and control the activities conducted by Flick Intel and alleged in this Complaint.

14. Upon information and belief, the Flick Intel Defendants derived direct financial benefits from the activities alleged herein. As a result, Defendants are liable individually, contributorily, and vicariously to Intel for the activities alleged herein.

III. INTEL’S BUSINESS AND MARKS

15. Intel is a world-famous company that develops, manufactures and sells a wide variety of computers, communications and Internet-related products and services. Intel’s customers include individual consumers, governments, schools and businesses.

16. For over forty-five years, Intel has used INTEL as a trade name, trademark and service mark to identify virtually its entire line of products and services. INTEL is one of the

most valuable, respected and famous names and trademarks in the world. Indeed, in 2014, the INTEL brand was ranked 12th in the world in Interbrand's Best Global Brands survey, with an estimated value of over \$34 billion. Numerous publications and court and tribunal decisions around the world have recognized the fame and renown of the INTEL mark.

17. Intel technology is ubiquitous. Intel creates products and technologies that have become essential parts of governments, businesses, schools, and homes everywhere. Intel's performance is frequently cited as a bellwether of the business economy both domestically and abroad.

18. Intel's products and technology are used in many applications. One of Intel's strengths is in the fields of graphics and home entertainment. Intel offers various hardware and software solutions for video content creation and editing, as well as content sharing across multiple devices. For example, the fourth generation INTEL® CORE™ processor platform includes built-in visual tools, including INTEL® IRIS™ Graphics for faster, more advanced video editing, as well as INTEL Wireless Display ("WiDi") and WiDi Media Share Software for sharing music, image, and video files wirelessly with other devices with a simple "flick" gesture. Intel also offers a Media Software Development Kit for developers, featuring a cross-platform application programming interface that includes video editing and processing, media conversion, playback, and video conferencing. Relevant customers therefore associate the INTEL brand with media technology solutions, including linking media content and controlling media remotely.

19. Intel uses INTEL as its "house mark" on or in connection with virtually every product and service it sells. In 2013 alone, Intel sold over \$52 billion of INTEL-branded products and services.

20. Intel is the owner of numerous U.S. trademark registrations for the mark INTEL, including the following:

a. Intel is the owner of U.S. Trademark Registration No. 938,772 issued on July 25, 1972, for the mark INTEL for use in connection with equipment for the testing and programming of integrated circuits, registers and semiconductor memories. This registration, duly and legally issued by the United States Patent and Trademark Office, is valid, subsisting, and incontestable pursuant to 15 U.S.C. § 1065. Intel uses the notice of registration, “®,” with its INTEL mark pursuant to 15 U.S.C. § 1111. A copy of this registration is attached hereto as Exhibit A.

b. Intel is the owner of U.S. Trademark Registration No. 939,641 issued on August 1, 1972, for the mark INTEL for use in connection with integrated circuits, registers, and semiconductor memories. This registration, duly and legally issued by the United States Patent and Trademark Office, is valid, subsisting, and incontestable pursuant to 15 U.S.C. § 1065. Intel uses the notice of registration, “®,” with its INTEL mark pursuant to 15 U.S.C. § 1111. A copy of this registration is attached hereto as Exhibit B.

c. Intel is the owner of U.S. Trademark Registration No. 1,022,563, issued on October 14, 1975, for the mark INTEL for use in connection with microcomputers, microcontrollers, and microprocessors. This registration, duly and legally issued by the United States Patent and Trademark Office, is valid, subsisting, and incontestable pursuant to 15 U.S.C. § 1065. Intel uses the notice of registration, “®,” with its INTEL mark pursuant to 15 U.S.C. § 1111. A copy of this registration is attached hereto as Exhibit C.

d. Intel is the owner of U.S. Trademark Registration No. 1,723,243, issued on October 13, 1992, for the mark INTEL for use in connection with metal key rings, note paper, note cards, posters, pencils, ball point pens, ink pens and stationery folders; plastic key chain tags; mugs and water bottles sold empty, jigsaw puzzles, golf balls, golf tees and golf ball markers. This registration, duly and legally issued by the United States Patent and Trademark Office, is valid, subsisting, and incontestable pursuant to 15 U.S.C. § 1065. Intel uses the notice of registration, “®,” with its INTEL mark pursuant to 15 U.S.C. § 1111. A copy of this registration is attached hereto as Exhibit D.

e. Intel is the owner of U.S. Trademark Registration No. 1,725,692, issued on October 20, 1992, for the mark INTEL for use in connection with, among other things, sports bags, gym bags, carry-on bags, towels, and clothing. This registration, duly and legally issued by the United States Patent and Trademark Office, is valid, subsisting, and incontestable pursuant to 15 U.S.C. § 1065. Intel uses the notice of registration, “®,” with its INTEL mark pursuant to 15 U.S.C. § 1111. A copy of this registration is attached hereto as Exhibit E.

f. Intel is the owner of U.S. Trademark Registration No. 2,171,778, issued on July 7, 1998, for the mark INTEL for use in connection with, among other things, computer operating system software, computer hardware, integrated circuits, integrated circuit chips, microprocessors, printed circuit boards, video circuit boards, audio-video circuit boards, video graphic accelerators, multimedia accelerators, video processors, and computer hardware and software for the receipt, display and use of broadcast video, audio and data signals. This registration, duly and legally issued by the United States Patent and Trademark Office, is valid, subsisting, and incontestable pursuant to 15 U.S.C. § 1065. Intel uses the notice of registration,

“®,” with its INTEL mark pursuant to 15 U.S.C. § 1111. A copy of this registration is attached hereto as Exhibit F.

g. Intel is the owner of U.S. Trademark Registration No. 2,194,121 issued on October 6, 1998, for the mark INTEL for use in connection with, among other things, printed materials, namely, books, magazines, newsletters, journals, operating manuals, users guides, pamphlets, and brochures about, for use with and directed to users of, computer operating system software; computer operating programs; computer application software; computer hardware; computer components; integrated circuits; microprocessors; computer memory devices; video graphic accelerators; and computer hardware and software for the receipt, display, and use of broadcast video, audio, and digital data signals. This registration, duly and legally issued by the United States Patent and Trademark Office, is valid, subsisting, and incontestable pursuant to 15 U.S.C. § 1065. Intel uses the notice of registration, “®,” with its INTEL mark pursuant to 15 U.S.C. § 1111. A copy of this registration is attached hereto as Exhibit G.

h. Intel is the owner of U.S. Trademark Registration No. 2,251,962 issued on June 8, 1999, for the mark INTEL for use in connection with clocks, jewelry, key chains, necklaces, trophies and watches. This registration, duly and legally issued by the United States Patent and Trademark Office, is valid, subsisting, and incontestable pursuant to 15 U.S.C. § 1065. Intel uses the notice of registration, “®,” with its INTEL mark pursuant to 15 U.S.C. § 1111. A copy of this registration is attached hereto as Exhibit H.

i. Intel is the owner of U.S. Trademark Registration No. 2,251,961 issued on June 8, 1999, for the mark INTEL for use in connection with binders, boxes for pens, tablets, note cards, self-adhesive pads, desk pads, pens, pencils, folders, paperweights, pen and pencil

holders, photograph stands, erasers, markers, desk sets, and desk organizers. This registration, duly and legally issued by the United States Patent and Trademark Office, is valid, subsisting, and incontestable pursuant to 15 U.S.C. § 1065. Intel uses the notice of registration, “®,” with its INTEL mark pursuant to 15 U.S.C. § 1111. A copy of this registration is attached hereto as Exhibit I.

j. Intel is the owner of U.S. Trademark Registration No. 2,250,491 issued on June 1, 1999, for the mark INTEL for use in connection with travel bags, luggage, school bags, back packs, beach bags, duffel bags, and umbrellas. This registration, duly and legally issued by the United States Patent and Trademark Office, is valid, subsisting, and incontestable pursuant to 15 U.S.C. § 1065. Intel uses the notice of registration, “®,” with its INTEL mark pursuant to 15 U.S.C. § 1111. A copy of this registration is attached hereto as Exhibit J.

k. Intel is the owner of U.S. Trademark Registration No. 2,254,525 issued on June 15, 1999, for the mark INTEL for use in connection with T-shirts, shirts, jackets, headwear, hats, and polo shirts. This registration, duly and legally issued by the United States Patent and Trademark Office, is valid, subsisting, and incontestable pursuant to 15 U.S.C. § 1065. Intel uses the notice of registration, “®,” with its INTEL mark pursuant to 15 U.S.C. § 1111. A copy of this registration is attached hereto as Exhibit K.

l. Intel is the owner of U.S. Trademark Registration No. 2,261,531 issued on July 13, 1999, for the mark INTEL for use in connection with toys, dolls, and bean bags. This registration, duly and legally issued by the United States Patent and Trademark Office, is valid, subsisting, and incontestable pursuant to 15 U.S.C. § 1065. Intel uses the notice of registration,

“®,” with its INTEL mark pursuant to 15 U.S.C. § 1111. A copy of this registration is attached hereto as Exhibit L.

m. Intel is the owner of U.S. Trademark Registration No. 2,276,580 issued on September 7, 1999, for the mark INTEL for use in connection with mugs and sports bottles. This registration, duly and legally issued by the United States Patent and Trademark Office, is valid, subsisting, and incontestable pursuant to 15 U.S.C. § 1065. Intel uses the notice of registration, “®,” with its INTEL mark pursuant to 15 U.S.C. § 1111. A copy of this registration is attached hereto as Exhibit M.

n. Intel is the owner of U.S. Trademark Registration No. 2,446,693, issued on April 24, 2001, for the mark INTEL for use in connection with, among other things, computers, computer hardware, software for use in operating and maintaining computer systems, microprocessors, integrated circuits, computer chipsets, computer motherboards, computer graphics boards, computer networking hardware, video apparatus, video circuit boards, and apparatus and equipment for recording, processing, receiving, reproducing, transmitting, modifying, compressing, decompressing, broadcasting, merging and/or enhancing sound, video images, graphics, and data. This registration, duly and legally issued by the United States Patent and Trademark Office, is valid, subsisting, and incontestable pursuant to 15 U.S.C. § 1065. Intel uses the notice of registration, “®,” with its INTEL mark pursuant to 15 U.S.C. § 1111. A copy of this registration is attached hereto as Exhibit N.

o. Intel is the owner of U.S. Trademark Registration No. 2,462,327, issued on June 19, 2001, for the mark INTEL for use in connection with, among other things, computer hardware and software for use in imaging and photographic applications, namely, organizing and

manipulating images and capturing, retrieving, storing and mailing images via interconnected computer networks. This registration, duly and legally issued by the United States Patent and Trademark Office, is valid, subsisting, and incontestable pursuant to 15 U.S.C. § 1065. Intel uses the notice of registration, “®,” with its INTEL mark pursuant to 15 U.S.C. § 1111. A copy of this registration is attached hereto as Exhibit O.

p. Intel is the owner of U.S. Trademark Registration No. 2,585,551, issued on June 25, 2002, for the mark INTEL for use in connection with, among other things, computer hardware installation and repair services; arranging and conducting educational conferences and seminars in the fields of computers, telecommunications, and computer networking, and distributing course materials in connection therewith; development, publishing and dissemination of educational materials in the fields of computers, telecommunications and computer networking for others; interactive and non-interactive computer education training services; providing information via global computer network in the fields of education; provision of interactive and non-interactive electronic information services on a wide variety of topics; development of local and wide area computer networks for others; computer software design for others; computer programming services; providing on-line newspapers, magazines, instructional manuals in the fields of technology, education and business; and development, maintenance, and provision of interactive and non-interactive electronic bulletin boards services in the field of education. This registration, duly and legally issued by the United States Patent and Trademark Office, is valid and subsisting. Intel uses the notice of registration, “®,” with its INTEL mark pursuant to 15 U.S.C. § 1111. A copy of this registration is attached hereto as Exhibit P.

q. Intel is the owner of U.S. Trademark Registration No. 2,742,174, issued on July 29, 2003, for the mark INTEL for use in connection with, among other things, repair, maintenance, support and consulting services for computer-related and communications-related goods; providing information in the field of computer technology via the global computer network; providing on-line publications, namely, books, brochures, white papers, catalogs and pamphlets in the fields of computer and information technology; and designing and developing standards for others in the design and implementation of computer software, computer hardware and telecommunications equipment. This registration, duly and legally issued by the United States Patent and Trademark Office, is valid and subsisting. Intel uses the notice of registration, “®,” with its INTEL mark pursuant to 15 U.S.C. § 1111. A copy of this registration is attached hereto as Exhibit Q.

r. Intel is the owner of U.S. Trademark Registration No. 3,029,954, issued on December 13, 2005, for the mark INTEL for use in connection with, among other things, internet and web servers; internet and web caching servers; wireless and remote computer peripherals; computer hardware and software for enabling web portals; computer hardware and software for digital encryption, identification and certification; computer hardware and software to enable remote encrypted networking; computer hardware and software to enable secure data transmission via networks, the internet and world wide web; internet and web data services, namely, digital identification and certification services; and application service provider services, namely, hosting computer software applications of others. This registration, duly and legally issued by the United States Patent and Trademark Office, is valid and subsisting. Intel uses the

notice of registration, “®,” with its INTEL mark pursuant to 15 U.S.C. § 1111. A copy of this registration is attached hereto as Exhibit R.

s. Intel is the owner of U.S. Trademark Registration No. 3,136,102, issued on August 29, 2006, for the mark INTEL for use in connection with telecommunication services, namely, electronic and digital transmission of data, documents, audio and video via computer terminals. This registration, duly and legally issued by the United States Patent and Trademark Office, is valid and subsisting. Intel uses the notice of registration, “®,” with its INTEL mark pursuant to 15 U.S.C. § 1111. A copy of this registration is attached hereto as Exhibit S.

t. Intel is the owner of U.S. Trademark Registration No. 3,173,391, issued on November 21, 2006, for the mark INTEL for use in connection with telecommunications consulting services. This registration, duly and legally issued by the United States Patent and Trademark Office, is valid and subsisting. Intel uses the notice of registration, “®,” with its INTEL mark pursuant to 15 U.S.C. § 1111. A copy of this registration is attached hereto as Exhibit T.

21. In addition to using INTEL as a trade name, a trademark, and a service mark, Intel also owns a large family of marks that incorporate INTEL as a prominent component of the mark. For example, in 1991, Intel developed and launched a cooperative advertising and licensing program referred to as the “Intel Inside® Program.” As part of this program, Intel licensed the INTEL mark to PC manufacturers to communicate to the end customer that the manufacturers’ products, such as personal desktop computers, laptop computers and workstations, were designed with genuine Intel microprocessors. Among Intel’s many thousands of OEM (“Original Equipment Manufacturer”) licensees worldwide are giants of the computer

industry such as Dell, Gateway, Hewlett-Packard, IBM, and Sony. Intel's OEM licensees have sold many billions of dollars worth of computer products bearing the INTEL marks. The combined advertising expenditure by Intel and Intel's licensees under the INTEL mark has averaged over one billion dollars for each of the last few years. Through extensive advertising and promotion by Intel and its licensees, advertisements reflecting the INTEL mark have most likely created billions of impressions.

22. Intel is the owner of numerous U.S. trademark registrations for the INTEL INSIDE mark, including Reg. No. 1,705,796, Reg. No. 2,179,209, and Reg. No. 3,795,049. Copies of these registrations are attached hereto as Exhibits U through W.

23. Intel owns many other U.S. trademark registrations for its family of INTEL formative marks. These include: INTEL CORE, INTEL VPRO, INTEL ATOM, INTEL INTRU, INTEL APPUP, and INTEL COFLUENT. Copies of these registrations are attached hereto as Exhibits X through AE.

24. Through its extensive use, Intel also owns common law trademark rights in INTEL and its family of INTEL formative marks, for all of the goods and services and activities identified herein.

25. Intel maintains an online presence at the URL intel.com. Intel uses its trade name and trademark as a web address in order to make it easy for customers to locate Intel's web site, and to identify that the web site is owned by Intel.

26. Intel's web site features the INTEL marks and many other INTEL composite marks.

27. As a consequence of the extensive sales, advertising, promotion, and use of the INTEL and INTEL formative trademarks, Intel has developed enormous recognition for its products and services under the INTEL mark and has acquired and enjoys an immensely valuable reputation and tremendous goodwill under the mark. The INTEL mark is world renowned, and is a “famous” mark for purposes of 15 U.S.C. § 1125(c)(1).

IV. THE FLICK INTEL DEFENDANTS’ BUSINESS

28. Intel is informed and believes that Flick Intel offers the license of technology for linking on-screen items to data sources and remote applications, for use with computers, televisions, and mobile phones, among other devices.

29. The FLICKINTEL trade name and the FLICKINTEL trademark wholly incorporate and emphasize the INTEL trademark, adding only “FLICK,” a descriptive term for a movie. Specifically, the term “FLICK” describes the media that can allegedly be linked to data sources and remote applications with Flick Intel technology. The Flick Intel Defendants further emphasize the INTEL element of their marks through selective use of capitalization, as shown on the Flick Intel Website, and at times separate the “FLICK” and “INTEL” portions of the trade name and trademark with a space, such that the INTEL mark stands on its own.

30. Despite Intel’s numerous attempts to resolve the dispute amicably, the Flick Intel Defendants have persisted in using the FLICK INTEL trade name and the FLICKINTEL trademark, leaving Intel no choice but to file this Complaint.

V. PROCEDURAL BACKGROUND

31. Flick Intel applied to register the mark FLICKINTEL (App. Serial No. 86025508) with the United States Patent and Trademark Office (“USPTO”) on July 31, 2013, and the mark published for opposition in the Official Gazette on December 31, 2013.

32. On April 30, 2014, Intel filed a Notice of Opposition (“Opposition”) to App. Serial No. 86025508 and with the Trademark Trial and Appeal Board (“TTAB”). The Opposition is currently pending before the TTAB. On November 13, 2014, Flick Intel filed before the TTAB a Petition to Cancel one of Intel’s federal trademark registrations for the mark INTEL® (Reg. No. 2585551), citing Intel’s Opposition in its Petition. Intel will seek, via stipulation or motion, to suspend the Opposition and the Petition to Cancel in the TTAB as a result of this litigation.

COUNT I TRADEMARK INFRINGEMENT (15 U.S.C. § 1114)

33. Intel realleges and incorporates herein by reference the matters alleged in Paragraphs 1 through 32 of this Complaint.

34. Upon information and belief, Flick Intel and the Flick Intel Members were aware of Intel’s business and its INTEL mark prior to the adoption and use of the FLICK INTEL trade name and the FLICKINTEL trademark.

35. Flick Intel and the Flick Intel Members either had actual notice and knowledge, or had constructive notice, of Intel’s ownership and registrations of the INTEL mark pursuant to 15 U.S.C. § 1072 prior to Flick Intel’s adoption and use of the FLICK INTEL trade name and the FLICKINTEL trademark.

36. Flick Intel and the Flick Intel Members are using the FLICK INTEL trade name and the FLICKINTEL trademark, in connection with the sale of Flick Intel's products and services, without consent and with knowledge of Intel's rights.

37. Such willful, deliberate, and unauthorized use of the FLICK INTEL trade name and the FLICKINTEL trademark falsely indicates to consumers that Flick Intel's products and services are in some manner connected with, sponsored by, affiliated or associated with, or related to Intel, Intel's licensees, or the goods and services of Intel and Intel's licensees.

38. Such unauthorized use of the FLICK INTEL trade name and the FLICKINTEL trademark is also likely to cause consumers to be confused as to the source, nature and quality of the products and services Flick Intel and the Flick Intel Members are promoting and selling.

39. Such unauthorized use of the FLICK INTEL trade name and the FLICKINTEL trademark in connection with the sale of products and services allows, and will continue to allow, Flick Intel and the Flick Intel Members to receive the tremendous benefit of the substantial goodwill established at great labor and expense by Intel and to gain acceptance of the goods and services of Flick Intel, not based on the merits of those goods or services, but on Intel's reputation and goodwill.

40. Such unauthorized use of the FLICK INTEL trade name and the FLICKINTEL trademark in connection with the sale and use of goods and services deprives Intel of the ability to control the consumer perception of the quality of the goods and services marketed under the INTEL mark, and places Intel's valuable reputation and goodwill in the hands of others over which Intel has no control.

41. The Flick Intel Defendants have caused confusion and are likely to cause further confusion, or to cause mistake, or to deceive consumers or potential consumers in violation of 15 U.S.C. § 1114.

42. Intel has been, is now, and will be irreparably injured and damaged by such trademark infringement, and unless enjoined by the Court, Intel will suffer further harm to its name, reputation and goodwill. This harm constitutes an injury for which Intel has no adequate remedy at law.

COUNT II
FALSE DESIGNATION OF ORIGIN
(15 U.S.C. § 1125(A))

43. Intel realleges and incorporates herein by reference the matters alleged in Paragraphs 1 through 42 of this Complaint.

44. Such unauthorized use of the FLICK INTEL trade name and the FLICKINTEL trademark falsely suggests that the products and services are connected with, sponsored by, affiliated with, or related to Intel, and constitutes a false designation of origin in violation of 15 U.S.C. § 1125(a).

45. Intel has been, is now, and will be irreparably injured and damaged by the aforementioned acts, and unless enjoined by the Court, Intel will suffer further harm to its name, reputation and goodwill. This harm constitutes an injury for which Intel has no adequate remedy at law.

**COUNT III
FEDERAL TRADEMARK DILUTION
(15 U.S.C. § 1125(C))**

46. Intel realleges and incorporates herein by reference the matters alleged in paragraphs 1 through 45 of this Complaint.

47. The INTEL mark is world-renowned. It is a famous mark that is widely recognized by consumers, businesses and industry, and that identifies the products and services of Intel in the minds of consumers.

48. The unauthorized use of the FLICK INTEL trade name and the FLICKINTEL trademark by the Flick Intel Defendants began after Intel's mark had become famous.

49. Such unauthorized use of the FLICK INTEL trade name and the FLICKINTEL will likely have an adverse effect upon the value and distinctive quality of the INTEL mark. Such acts blur and whittle away at the distinctiveness and identity-evoking quality of the INTEL mark. Such acts are likely to dilute the famous INTEL mark in violation of 15 U.S.C. § 1125(c).

50. Intel will be irreparably injured and damaged by the aforementioned acts, and unless enjoined by the Court, Intel will suffer further harm to its name, reputation and goodwill. This harm constitutes an injury for which Intel has no adequate remedy at law.

**COUNT IV
TRADEMARK DILUTION IN VIOLATION OF
THE NEW MEXICO TRADEMARK ACT
(N.M.S.A. 1978 § 57-3B-15)**

51. Intel realleges and incorporates herein by reference the matters alleged in paragraphs 1 through 50 of this Complaint.

52. The INTEL mark is a famous and distinctive mark in the State of New Mexico by virtue of its extensive use and promotion in the state. The extensive publicity and merchandising

for the mark and the innovation of Intel's goods and services identified by the INTEL mark have created strong, widespread recognition of the mark in the State of New Mexico.

53. Upon information and belief, Flick Intel and the Flick Intel Members willfully and intentionally adopted the FLICK INTEL trade name and the FLICKINTEL trademark for the purpose of trading on, misappropriating, and wrongfully reaping the benefits of the goodwill and reputation that has attached to the INTEL mark by reason of the substantial expenditure of time, money and effort by Intel.

54. The unauthorized use of the FLICK INTEL trade name and the FLICKINTEL trademark by Flick Intel and the Flick Intel Members began long after Intel's mark had become famous in the State of New Mexico.

55. Such unauthorized use of the FLICK INTEL trade name and the FLICKINTEL trademark has, and will continue to have, an adverse effect upon the value and distinctive quality of the INTEL mark. Such acts have lessened the capacity of Intel's famous mark to identify and distinguish its goods and services, and have caused damage to Intel's business reputation and goodwill in the INTEL trademark, all in violation of Section 57-3B-15 of the New Mexico Trademark Act.

56. By reason of the foregoing, Intel is being damaged by the dilution of its famous INTEL trademark by the Flick Intel Defendants. Intel will be irreparably injured by the continued acts of Flick Intel and the Flick Intel Members unless such acts are enjoined. Intel has no adequate remedy at law.

COUNT V
TRADEMARK INFRINGEMENT
UNDER NEW MEXICO COMMON LAW

57. Intel realleges and incorporates herein by reference the matters alleged in Paragraphs 1 through 56 of this Complaint.

58. Intel was the first to adopt and establish goodwill in the INTEL mark to signify its goods and services, and the promotion thereof. Intel has extensively used and promoted the INTEL mark in the State of New Mexico. The INTEL mark is inherently distinctive and has accumulated substantial goodwill as a mark indicating, identifying, or denominating Intel as the source of its goods and services through extensive use of the INTEL mark in association with Intel's goods and services described above.

59. The unauthorized use of the FLICK INTEL trade name and FLICKINTEL trademark by Flick Intel and the Flick Intel Members violate general principles of law and equity, and constitute trademark infringement under the common law of the State of New Mexico.

60. Such unauthorized acts by Flick Intel and the Flick Intel Members are likely to create confusion, mistake, and deception of consumers who are likely to believe that Flick Intel's goods and services are connected with, sponsored by, affiliated or associated with, or related to Intel, Intel's licensees, or the goods and services of Intel and Intel's licensees. Such acts constitute an attempt to unfairly trade on the goodwill associated with the INTEL mark.

61. As a result of the acts complained of herein, Flick Intel and the Flick Intel Members have unfairly competed with Intel and infringed the INTEL mark. Upon information and belief, Flick Intel and the Flick Intel Members intentionally adopted the FLICK INTEL trade

name and FLICKINTEL trademark with full knowledge of, and in disregard of, Intel's rights, and has continued to use the FLICK INTEL trade name and FLICKINTEL trademark, despite repeated warnings, in willful and wanton disregard of Intel's valuable rights in its INTEL mark.

62. Intel has been, is now, and will be irreparably injured and damaged by the aforementioned acts by Flick Intel and the Flick Intel Members, and unless enjoined by the Court, Intel will suffer further harm to its name, reputation and goodwill. This harm constitutes an injury for which Intel has no adequate remedy at law.

**COUNT VI
VIOLATION OF THE
NEW MEXICO UNFAIR PRACTICES ACT
(N.M.S.A. 1978 § 57-12-1)**

63. Intel realleges and incorporates herein by reference the matters alleged in paragraphs 1 through 62 of this Complaint.

64. Flick Intel and the Flick Intel Members have engaged in unfair and deceptive trade practices in violation of the New Mexico Unfair Practices Act through their willful and deliberate use of the FLICK INTEL trade name and FLICKINTEL trademark in the sale, offering for sale, distribution, and advertising of Flick Intel goods and services in the regular course of trade or commerce in a manner that tends to and does deceive and mislead the public by causing confusion or misunderstanding as to the source, sponsorship, approval, or certification of Flick Intel goods or services, in violation of NMSA 1978, § 57-12-2(D)(5).

65. Upon information and belief, Flick Intel and the Flick Intel Members made false or misleading representations of association or endorsement by using the FLICK INTEL trade name and FLICKINTEL trademark in the sale, offering for sale, distribution and advertising of the Flick Intel goods and services in the regular course of its trade or commerce with knowledge

that it would cause confusion or misunderstanding as to affiliation, connection or association with Intel, Intel's licensees, or the goods and services of Intel and Intel's licensees, in violation of NMSA 1978, § 57-12-2(D)(2)-3).

66. Intel has been, is now, and will be irreparably injured and damaged by the aforementioned acts by Flick Intel and the Flick Intel Members, and unless enjoined by the Court, Intel will suffer further harm to its name, reputation and goodwill. This harm constitutes an injury for which Intel has no adequate remedy at law.

PRAYER FOR RELIEF

WHEREFORE, Intel prays for relief as follows:

1. Entry of an order and judgment requiring that the Flick Intel Defendants, and their agents, servants, employees, owners and representatives, and all other persons, firms or corporations in active concert or participation with it, specifically including Flick Intel and the Flick Intel Members, be enjoined and restrained from (a) using in any manner the INTEL mark, or any name, mark or domain name that wholly incorporates the INTEL mark or is confusingly similar to or a colorable imitation of this mark; (b) doing any act or thing calculated or likely to cause confusion or mistake in the minds of members of the public, or prospective customers of Intel's products or services, as to the source of the products or services offered for sale, distributed, or sold, or likely to deceive members of the public, or prospective customers, into believing that there is some connection between Flick Intel, the Flick Intel Members, and Intel; and (c) committing any acts which will tarnish, blur, or dilute, or will likely tarnish, blur, or dilute the distinctive quality of the famous INTEL mark;

2. A judgment ordering Flick Intel and the Flick Intel Members, pursuant to 15 U.S.C. § 1116(a), to file with this Court and serve upon Intel within thirty (30) days after entry of the injunction, a report in writing under oath setting forth in detail the manner and form in which they have complied with the injunction, and ceased all sales and promotion of goods and services under the FLICK INTEL trade name and FLICKINTEL trademark, as set forth above;

3. A judgment ordering Flick Intel and the Flick Intel Members, pursuant to 15 U.S.C. § 1118, to deliver up for destruction, or to show proof of said destruction or sufficient modification to eliminate the infringing matter, all articles, packages, wrappers, products, displays, labels, signs, vehicle displays or signs, circulars, kits, packaging, letterhead, business cards, promotional items, clothing, literature, sales aids, receptacles or other matter in the possession, custody, or under the control of Flick Intel or its agents bearing the trademark INTEL in any manner, or any mark that is confusingly similar to or a colorable imitation of this mark, including without limitation the FLICK INTEL trade name, and FLICKINTEL trademark, both alone and in combination with other words or terms;

4. A judgment ordering Flick Intel and the Flick Intel Members to take all steps necessary to cancel any trademark application or registration they may have in the U.S. that includes the letter string INTEL, specifically including App. Serial No. 86025508;

5. A judgment ordering Flick Intel and the Flick Intel Members to take all steps necessary to cancel or transfer to Intel, in Intel's sole discretion, the flickintel.com, flickintel.net, and flickintel.tv domain names, and any other domain name including the mark INTEL in the possession or control of Flick Intel or the Flick Intel Members, and to remove all references to INTEL from all of their other websites, if any;

6. A judgment ordering Flick Intel and the Flick Intel Members to account to Intel any and all revenues and profits that Defendants have derived from their wrongful actions and to pay all damages that Intel has sustained by reason of the acts complained of herein;

7. A judgment awarding Intel enhanced damages under 15 U.S.C. §1117, its reasonable attorneys' fees and costs of suit, prejudgment interest, and, for the willful and wanton actions of Flick Intel and the Flick Intel Members, punitive damages against Flick Intel and the Flick Intel Members; and

8. A judgment granting Intel such other and further relief as the Court deems just and proper.

Respectfully submitted,

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